

ET 99-267

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Canyon Area Residents for the Environment, Inc.

Golden, Colorado 80401

JUL 26 1999
FCC

CARE is a coalition of homeowners' associations & neighborhoods in the Mount Vernon Canyon. Since 1987 it has served as an umbrella organization representing the central mountain communities of Jefferson County - from Clear Creek to Bear Creek, the Hogback to Rainbow Hills.

COMMENTS ON LAKE CEDAR GROUP PROPOSED SUPERTOWER AND TRANSMISSION BUILDING-POTENTIAL IMPACTS ON HISTORIC AREAS

TO: Dr. Robert Cleveland, 445 12th St. S.W. FCC Room 7-A265, Wash, D.C. 20554

RE: FCC revised PUBLIC NOTICE DA 99-1211 LOOKOUT MOUNTAIN, COLORADO -how this facility "may affect districts, sites, buildings, structures or objects, significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places"

I. INTRODUCTION

Consultation with CARE? Although the Advisory Council on Historic Preservation Klima letter asks the FCC to consult with CARE, CARE has thus far received no communication on this topic from the FCC other than formal pleadings and the request for Public Comment.

Although the Lake Cedar Group is proposing to construct the tower upon your approval, it remains the responsibility of FCC to ensure that historic properties are considered under Section 106, in accordance with the Council's implementing regulations. 36 CFR Part 800.....

...In particular, we recommend that you involve the citizen group known as Canyon Area Residents for the Environment (CARE) and the project applicant, Cedar Lake Group, LLP, in the consultation process.

CARE willing to consult. The Jefferson County Commissioners have also requested that CARE work with the broadcasters on a solution on the siting of HDTV. This suggestion was made following the Commissioner's rejection of the Lake Cedar Group Rezoning Proposal. Would members of the FCC legal department sit down with CARE and the broadcasters to try to work out a solution? In order to provide the FCC with a full opportunity to reconsider these issues, CARE will move to dismiss without prejudice its appeal to the Federal District Court of

Appeals. Thus the FCC will have adequate time to perform an environmental assessment and consult with CARE and thoroughly assess the impacts to historic areas without proceeding further in the Court of Appeals at this time.

Environmental study urged by Jeffco Historical Commission. The Jefferson County Historical Commission, in their July 15, 1999 letter to the FCC on the negative impact to historic sites (ex.36), urges an environmental study of Lookout Mountain. If an Environmental Assessment were performed, a full investigation and public comment would take place. A true public comment would be obtained on issues such as the impact of the cross-sectional face area, the ugly star-mount design, (perhaps) dozens more receivers and transmitters on the tower, and a huge new 32,500 square foot building at the base.

Not an established antenna farm. The FCC Public Notice does not provide the public with the type of detailed information about the location, architecture and size of the structures proposed by Lake Cedar Group that would allow the public to provide the FCC with specific feedback on the visual impact. The transmission building, bridge and supertower would be the largest structure ever placed on the mountain backdrop of the Denver Metro area. The public is not told this. Instead of furnishing the public with this necessary information, the FCC tells the public that the FCC does not have to consider the impact on historic sites because this proposal is in an established antenna farm. This proposal is not in an established antenna farm, much of it is on virgin ground that has never been disturbed and some is on a roadbed that is owned by all the lot holders of the Lookout Mountain subdivision. The Lake Cedar Group proposal is on mountain residential and agricultural land that has not ever been zoned for towers. Almost all the towers on Lookout are zoned as legal non-conforming mountain residential or agricultural.

In 1990, Jefferson County wanted to institute a policy to phase out these towers and antennas on Lookout. If the new digital antennas were not licensed on Lookout, then the existing analog would become obsolete and the phase out on Lookout Mountain could progress. Instead of cooperating in this phase out of radiation in a historic and residential area, many television stations formed Lake Cedar Group and obtained construction permits from the FCC to double the existing radiation on Lookout from 10 million watts to 20 million watts.

The FCC does the public a disservice by representing that what has been done in the past guarantees that it will continue for 50 years into the future. The FCC fails to advise the public of the likely increase in electrical interference from Lake Cedar Group's proposal to double the radiation on Lookout Mountain.

Mountain Backdrop. Boulder, Douglas, El Paso, Jefferson and Larimar Counties have worked to "safeguard the majestic views of the Front Range Mountain Backdrop." ... This area is "where the plains rise to meet the mountains and where the ecosystems and land-use patterns of the plains and foothills merge. It is the most visible landmark that greets visitors from the east and is a symbol of Colorado's natural beauty."(ex. 37)

Margot Zallen, Esq., President of the Open Space watchdog organization known as Plan Jeffco testified before the Jefferson County Commissioners on the Lake Cedar Group Rezoning hearing. Ms. Zallen, after describing the several-year history of the Mountain Backdrop concept (a five-county joint preservation effort) and its large public support, emphasized the enormity of the impact of the proposed tower and building against this popular and unique natural landmark. The five counties received state support through a planning grant – enabling public meetings to be held and some lands surveyed. Public support was high. Ms. Zallen noted that the tower and building would be by far the largest structures anywhere along the Mountain Backdrop. She also

pointed out that it would be a direct repudiation of the County's early (and lead) support with its four neighboring counties to preserve this unique geological and historical wonder. As much of Golden's economy is built around its historic character (being the first Territorial capital, with that building still standing), with city borders less than a mile away from the tower (and its city council being unanimously opposed to the tower), the historic character of the local "Mountain Backdrop" cannot be too strongly emphasized. (Jefferson County tracks many of its Open Space Acquisitions in this vicinity as Mountain Backdrop Central. As an example, Jefferson County acquired 110 acres in 1975 for the Jefferson County Nature Center as part of the Mountain Backdrop Central. (ex. 38)

The new tower and building would be highly visible not only to Golden, but also to most of the Metro area. CARE challenges the broadcasters to place iridescent white stakes and rope the height of the building on the site and yellow stakes and rope for the concrete foundation and retaining walls and then let the public, the FCC and the historic agencies see for themselves how visible this structure would be from various views. The Supertower would be much thicker than the existing channel 4 tower with a much larger structure on the top and a large transmission bridge connecting it to the building. Most of the areas described are within line of sight of the slender channel 4 tower and would be more affected by the new proposal.

RF continues to be found in excess of public limits. Several Lookout Mountain FM stations have repeatedly exceeded the FCC recommended radiofrequency public exposure limit. On July 1, 1999, Jefferson County found that the limits were again exceeded. (ex. 39) Case Summary of Jefferson County Planning and Zoning-Addendum to Staff Comments for Lake Cedar Group. The public is not likely to continue to tolerate such violations. The public has the right to bring civil actions for the continuing abateable nuisance of electromagnetic radiation

trespass. Broadcasters who remain on Lookout would be subject to such civil suits if their radiation trespasses on humans.

Historic Preservation Act has not been followed on Lookout licenses. The great increase in antennas, towers and radiation and resulting interference with electronic equipment occurred after the 1966 Historic Preservation Act became the law. Every license and renewal the FCC granted on Lookout Mountain after 1966 was done without adherence to the requirements of the Historic Preservation Act. Until CARE forced this issue, none of the broadcasters who obtained licenses from the FCC, nor the FCC had ever investigated whether their proposed facilities may affect districts, sites, buildings, structures or objects, significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places.

II. TRANSMISSION BUILDING AND SUPERTOWER STRUCTURES

25,600 square foot transmission building. This would be the largest structure on the Mountain backdrop of the entire Denver Metro area and visible to hundreds of thousands of people. Up until March 1999, Lake Cedar Group proposed to build a 32,500 square foot transmission building and an 850 plus ft. guyed tower with a large starmount on Lookout Mountain. The current plans call for a 25,600 square foot transmission building , with an even larger concrete pad and the same tower. This is a massive building that will be lit at night and visible in much of Golden and the surrounding plains as well as the mountain since it is near the ridgetop of Lookout Mountain. Such a building is between the size of a King Soopers (Kroger Grocery in the East) and Walmart. All the other buildings in the immediate vicinity are less than 4000 square feet. The only elevation provided is the East elevation(Ex. 1). Lake Cedar Group

did not provide drawings or size descriptions of the transmitted building to the Jefferson County Historic Commission or the State Historic Commission despite specific requests.

Strip Mall architecture. Architect Andy Beck testified (Ex 4) before the Jefferson County Commissioners and Lake Cedar Group on June 29, 1999 that this architecture does not blend with the natural surroundings as required by Jefferson County's Central Mountain Community Plan (Ex 5.). Architect Beck (who restored the Old Faithful Inn at Yellowstone-ex. 6) showed that the architecture of this building is strip mall and cheap motel architecture that makes the building highly visible and is not in harmony with mountain architecture. (Ex. 2-Applewood Shopping Center) (Ex. 3-Days Inn Motel, 6th and Federal).

Tower and structure height. The tower will be taller than the tallest building in Denver. The retaining walls and transmitter building would create a mass almost five stories high. (Ex. 7-drawing of tower)

Plans call for numerous antenna, dishes, etc on the roof and night lighting (Ex. 8-Official Development Plan-Lake Cedar Group)

Map shows building and tower location near many homes that were built in 1920's (Ex.9)

III. GENERAL HISTORY OF AREA

Native Americans. Sites of human habitation thousands of years old have been found on Lookout Mountain. (Ex. 10-Magic Mt.-Butterick letter). Lookout Mountain was a sacred place for prayers, burials and meditations for several tribes. The Arapaho, Ute, Kiowa and Cheyenne lived in this area for centuries. The attached map shows the Arapaho and Cheyenne Territory as of 1851 (ex. 11) The Arapaho were driven out of Colorado following the Sand Creek Massacre of Arapaho by soldiers. (Ex 12)

CARE finds no evidence that either the broadcasters or the FCC have made any attempt to contact any of the Native American Tribes about this proposal.

1912-The Lariat Trail up the side of Lookout Mountain is completed. (This today is on the Historic Register and the view of the proposed tower is distinct from this historic road.)

-1913 The Denver Mountain Park system was begun with the purchase of Genesee Mountain and shortly thereafter added Colorow Point, a .37 acre scenic overlook – also relatively nearby and on the Historic register

-1917 William Cody (Buffalo Bill) is buried at the Denver-acquired Lookout Mountain Park and Charles Boettcher builds his Lorraine Lodge - now known as the Boettcher Mansion. (Both these structures are on the Historic Register and are already negatively influenced by existing towers – as has been documented by representatives of both places.)

-1922 Mt. Vernon Country Club Place is platted (65 homes by 1928). Denver builds Pahaska Lodge to house William Cody's artifacts (an important reason that visitors come to the grave);

-1924 Lookout Mtn. Park subdivision #6 plat is filed (Cedar Lake Road) with 275 lots

-1925 Flying Horse Inn and cabins are built (became "Lighted Lantern" in 1960s)

-1928 Clear Creek Heights subdivision is platted. All of Lookout is zoned mountain residential (MR-1).

All of the above occurred before there were any communications facilities on Lookout Mountain.

Maps of Historic Areas Denver Mountain Parks Map with X showing transmitter building and Central Mountains Community Plan (Ex. 13)

Index of Sites on National Historic Register. (ex.14) These are listed in the attached document.

Mother Cabrini Shrine Application for National Historic Register (ex. 15). During this evaluation by the FCC, the FCC must treat this property as if it had actually qualified for the National Historic Register. The Shrine has an electronic gate that opens and shuts uncontrollably from electronic interference. Tourists trying to enter and leave are trapped on either side of the gate.

Index of Sites of Historic Significance. These sites might qualify for the National Historic Register (ex 16)

IV. DENVER MOUNTAIN PARKS-TRANSMISSION TOWERS-MAJOR THREAT

Introduction. The sight of the Rocky Mountains rising up from the Great Plains is so unique and spectacular that the City of Denver has put forth decades of work in preserving these inspirational places by purchasing land within Jefferson County for various Denver parks. The holdings of Denver in Jefferson County affected by this proposal are vast. The Superintendent of Denver Mountain Parks encloses this letter of July 21, 1999 about the impacts of the proposal.

The Denver Mountain Parks District is on the National Historic Register as a Multiple Properties listing, recognized at the local level. The Lariat Trail Scenic Drive, Buffalo Bill's Grave and Museum, the Pahaska Teepee... and Lookout Mountain Park are all near the proposed transmission facilities. The scenic qualities from Genesee Mountain Park as well as other areas in the Mountain Park system may also be impacted. All of these sites are contributing areas to our National Historic designation. (ex. 40)

Lookout Mountain Park. This Denver Mountain Park was begun in 1915 with the acquisition of Colorow Point scenic overlook. In 1983, a submission by Denver Mountain Parks to the United States Department of the Interior National Park Service states,

"A major threat to the parks integrity are utility and transmission towers. The mountain parks have several high mountains close to Denver which make them highly desirable for television and radio transmission towers. Several towers exist

within a portion of Lookout Mountain Park which harm the scenic and visual character of one portion of that park. (ex. 17).

Buffalo Bill's Grave and Museum and Pahaska Tepee-Part of Denver Mountain Parks.

Museum Director, Steve Friesen, has filed a separate submission that we endorse those details the negative effects of the interference and visual impacts from this proposal. Of the one half million tourists who visit this site each year, many are in wheelchairs. Electric wheelchairs have malfunctioned in the CARE neighborhood as a result of interference from the towers. (ex.18. Affidavit of Jim Hill, whose wheelchair went out of control and over a precipice due to interference.) The new proposal would cause even more interference.

Other Denver Mountain Park properties within line of site of the proposed tower include; Genesee Park and the Flag Pole, Buffalo Herd, Katherine Craig Park, Patrick House and Chief Hosa Lodge on Genesee Mountain.

V. JEFFERSON COUNTY HISTORIC PROPERTY IMPACTED BY NEGATIVE VISUAL AND INTERFERENCE IMPACTS

Boettcher Mansion (also known as Lorraine Lodge ex. 19). The 1917 Boettcher Mansion now experiences so many interference problems from the television and radio towers that they publish an informational flyer to all prospective users of audio and visual equipment. (ex. 20) This flyer advises as to the location of the greatest amounts of interference and various measures to try to cope with it. CARE incorporates by reference the previous filing made to the FCC on Blanketing interference in this area. The Jefferson County Lookout Mt. Nature Center shares the parking lot with Boettcher. People parking new Ford Explorers in 2 spaces at that lot have discovered that their engines have locked from the interference that exists now. The

vehicles had to be towed from the area. Across from the entry to the Boettcher Mansion is Colorow Point Park owned by Denver Mountain Parks.

The Lariat Trail Scenic Mountain Drive. This zig zagging roadway up the North flank of Mt. Zion onto Lookout Mountain was completed in 1914. It goes by the Windy Saddle Open Space Park famous for hang gliders, the entrance to the Beaver Brook Trail, by the Lariat Spring House and the top part of Apex trail. Tourists traveled this route for decades before towers to visit William Cody's Grave and to gaze out at unobstructed vistas to the east. This historic gateway into the Rockies would be marred by the jarring presence of the ugly transmitter building and spiked supertower that would mar many views of those on the mountain looking towards the plains.

Clear Creek Canyon and Beaver Brook Trail. Lookout Mountain is the southeast portal into Clear Creek Canyon. Jefferson County Open Space and the Clear Creek Land Conservancy and other private conservation groups have put enormous effort into preserving this canyon. This is the most pristine canyon in all of the Denver front range. This supertower project is a proposal for a long-term industrial visual blight to this portal at a time when the County and the residents are actively restoring the area to its original natural beauty. The historic Beaver Brook Trail runs along the south upper benches of the canyon on Lookout Mountain and Mt. Vernon.

North and South Table Mountain. Jefferson County Open Space owns parts of these mesas and has plans to acquire more. The City of Golden sits between these mesas and Lookout Mountain. Those looking up from the mesas towards Lookout would clearly see the enormous building and Supertower. Those looking from many areas of Lookout toward these mesas would see the large supertower in their way.

Apex Open Space Park. This Jefferson County Open Space Park extends from Heritage Square and Magic Mountain at the east base of Lookout Mountain up to the top and connects to the trail to the Jefferson County Nature Center and Boettcher Mansion. The supertower would be visible from various places in this park. The park contains the historic Apex toll road trail. Even further back in time, this was an Indian trail. The Supertower with its large starmount on the top would create a jarring man-made intrusion of the vistas to the North of Apex Park. The original site for Apex Town was between Heritage Square and the Apex trail.

Other Jeffco areas negatively affected. Mt. Vernon Country, Club Mount Vernon House, Dinosaur Ridge, and Museum, and Rooney Hogback

VI. NEGATIVE VISUAL AND INTERFERENCE IMPACTS TO HISTORIC AREAS IN THE CITY OF GOLDEN

Golden visual. Readers unfamiliar with Golden need to understand that Golden sits at the base of the Rockies. Golden's horizon is outlined by Lookout Mountain, the entrance to Clear Creek Canyon and the Table Mountains. Structures up near the ridge tops are quite visible. Golden contains numerous historic sites that would be blighted by the visual impact of the tower. Apparently the broadcasters may have represented that one would need binoculars to even see the transmitter building from Golden. This is not true. The Golden City Council has passed a unanimous resolution opposing the Lake Cedar Group project.

Key Historic Sites in Golden.

Astor House Hotel. The Astor House Hotel was built in 1867 and listed on the National Register in 1973 (ex 21).

Armory. The Colorado Natl Guard Armory is the largest cobblestone building in the United States (ex. 22)

Historic Residential. The 12th Street Historic Residential District is such an intact historic residential area that it was placed on the National Register in 1983. (ex. 23)

Foothills Art Center. This center contains 3 historic buildings that combine history, art and architecture. (ex. 24)

Golden High School. Golden had the first high school in Colorado. This National Historic building housed students from 1924 through 1988. (ex. 25)

Camp George West Historic District. Established in 1903, this was the first center of the National Guard and contains also the Colorado Amphitheater, and the Ammunition Igloo. (ex. 26)

Quaintance Block. Located in downtown Golden, it was owned by the man who ran the funicular and resort that once stood atop Castle Rock on South Table Mountain above Golden. (ex. 27)

Calvary Episcopal Church. Built in 1867, this structure is Colorado's oldest continuously used Episcopal Church. (ex. 28)

Loveland/Coors Building. The Territorial Legislature met in this building in 1866 and 1877 before Denver became the Colorado Capitol. (ex. 30)

Colorado RR Museum. Famous railroad engines of the Rio Grande S. RR, # 2, Rio Grande S. RR, # 6, Rio Grande S. RR, #7 reside at this museum. (ex. 31)

Coors House. This example of architecture that blends with the mountains has existed for close to a century. (ex. 32)

Colorado School of Mines. Not only would this tower mar the background of the School of Mines but also the radiation would further interfere with the School of Mines long-standing research in many areas, especially geophysics. The School of Mines Faculty has voted to oppose this tower proposal.

Hill Section, Golden Hill Cemetery. This final resting places for many Jewish victims of the tuberculosis epidemic at the turn of the century reminds all that this part of Colorado was sought out for its pure air and healing powers. (ex. 29) Now the living residents fear the radiation pollution from the broadcasters on Lookout Mountain and the residents of Beverly Heights at the base of Lookout Mountain in Golden have over 3 times the rate of benign brain cancers as expected and the men living closest to the towers on the Mountain have 4 times the expected rate of malignant brain cancers.

February 17, 1999, the Colorado Department of Public Health and Environment released the Brain Cancer Audit of Census Block Groups in the Vicinity of Lookout Mountain. The two block groups closest to the antennas on Lookout had statistically significant increases in brain cancer.

-February 17, 1999, Dr. Johnson, Director of the Jefferson County Department of Health and Environment, sent a letter to the County Commissioners regarding the standard to be employed. He stated, " I tend to favor the "as low as reasonably achievable," or ALARA, principle in cases like this, and would encourage a thorough investigation of all reasonable alternatives that are not cost prohibitive before increasing the amount of EMR that is present on Lookout Mountain."

- April 27, 1999. In sworn testimony at the Lake Cedar Group hearing before the Jefferson County Commissioners, Dr. Richard Hoffman, the Chief Medical Officer for the

Colorado Department of Health and Environment (CDHE) testified that he agreed with Dr. Johnson - that the standard for Lookout Mountain should be ALARA. Dr. Hoffman reviewed the FCC standard and much of the pertinent background literature. He concluded that the FCC standard is 1) based only on acute (short-term) effects, and 2) not on long term effects. He stated that this is not the kind of standard the CDHE uses for cancer protection.

- May 19, 1999, Norbert Hankin of the EPA Office of Air and Radiation sent a letter to the President of the Cellular Phone Taskforce. This letter admits that the FCC has not asked EPA to review and evaluate any of the materials in the FCC's docket ET 93-62 other than the April 1993 Notice of Proposed Rulemaking, Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation. The last comments submitted by the EPA to the FCC were on November 9, 1993. The FCC was provided this letter on May 26, 1999 as part of a filing in Cellular Phone Taskforce, et al v FCC No. 97-4328.

On May 27, 1999, Dr. Roger Mattson, the former director of the EPA's non-ionizing radiation standards activities, testified under oath in the Lake Cedar Group Rezoning hearing before the Jefferson County Commissioners. He stated that the current U.S. standard of 200 microwatts per centimeter squared is based on thermal effects, not on possible chronic effects of long term low levels of exposure to radio frequency radiation. The present standard was not promulgated as, and is not intended to be, a public health and safety standard. Dr. Mattson reaffirmed this testimony in his Sworn affidavit on June 14, 1999 filed earlier with the FCC. In this same hearing, Ophthalmologist, Dr. Pardos testified about Dr. Kues' research indicating eye damage to primates receiving glaucoma medication at EMR levels within the FCC standard. Other scientists and physicians testified under oath regarding damage to human health from electromagnetic radiation at levels within the FCC standard.

VII. NEGATIVE VISUAL AND INTERFERENCE IMPACTS TO PRIVATE PROPERTY OF HISTORIC SIGNIFICANCE.

Private Sites on Lininger Mt. Mt. Vernon Townsite, Nelson House, Gov. Steele's homesite (ex. 33), Charles Braun Farm, Thiede Ranch (ex. 34)

Private Sites on Lookout Mountain. The original Rockland School, now the Genesee Grange. Rockland Church (original), Chilies Farm in Rockland Valley, Northwoodside Foundation Open Space, Rilliet Park, Cabrini Road, Chiles Farm, Heritage Square , Vidler House-now the Buffalo Corral restaurant. Mt. Vernon Country Club, Samuel Warren Farm, Twisted Pine Girl Scout Lodge

Arapaho, Cheyenne, Kiowa and Ute Native American sites. There are certain religious Native American ceremonies that can only be performed on Lookout Mountain according to Anthropology Professor Deward Walker at the University of Colorado. An enormous industrial building attached to a supertower by a transmission bridge does not belong amidst any culture's place of worship.

Rooney Ranch and the Dinosaur Hogback (ex. 35). These also are visually affected.

VIII. CONCLUSION

At a time when Jefferson County, Denver County, numerous historic groups and citizens are working and investing to preserve and protect the heritage of this unique area, this proposal for the largest structure on the face of the Front Range is jarring and outdated. Numerous

alternative sites exist that the broadcasters refuse to consider. CARE is willing to sit down with the FCC, Jefferson County, the broadcasters and other affected groups to try to work out any problems with these alternative sites. Golden, the School of Mines Faculty, the Jefferson County Commissioners, this community and many others have already said, "no" to this Lake Cedar Group proposal. Significant negative impacts to National Historic sites require that alternative sites be examined. CARE urges the FCC to rescind the construction permits and make arrangements to help us all find a better solution.

Sincerely,

A handwritten signature in black ink, reading "Jeff Holland". The signature is written in a cursive, flowing style with a large initial "J".

Jeff Holland

CARE 1999 President